dozen without doing himself any good, so long as the real occupant A. was not notified or before the court. But the courts evolved a practice said to be the device of Rolle, C.J., in the time of the Commonwealth, that if the actual tenant on being notified did not apply to the court to be admitted defendant in the room and stead of the Casual Ejector, he was to be held to have no right at all. The practice was to draw a declaration in "John Doe, on the demise of B. v. Richard Roe," setting out (1) title in B., (2) lease by him to John Doe, (3) entry by John Doe under the lease, and (4) ouster by Richard Roe; serve this on A. with a notice, as from Richard Roe, that he has no title at all to the land and shall make no defence, advising A. to appear in court and defend his own title otherwise he, the Casual Ejector, will suffer judgment to go against him, and A. will be turned out of possession. If A. does not appear in court, judgment will be given against the Casual Ejector and possession will be given to B. If A. desires to defend his title, then he will appear in court by his counsel, and apply to be admitted to defend in the place of the Casual Ejector. He will be permitted to do so only on condition that he will confess lease, entry and ouster, so that the only question to be tried will be the title of B. Thus a string of legal fictions was invented, so that the title of the claimant B. should alone come in question at the trial.

There were many cases of motion for judgment against the Casual Ejector and some of motion to be allowed in to defend in the place of the Casual Ejector. Defendants were held to their undertaking; in an Assize book of Mr. Justice Macaulay (still extant and at Osgoode Hall) in 1827, there are contained the judge's notes of a case in the Western District at Sandwich, in which Dr. Rolph, counsel for the defendant allowed in to defend, refused to make the admissions required. The judge held that, having taking out the "common rule" he was bound to make the admissions; he proceeded to try the case, although the admissions had been made. See Blackstone, Comm., Book 3, pp. 204, 205.

Questions of law were frequently reserved at the trial for the